

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Eva M. Rachinger,

Plaintiff,

Hon. Hugh B. Scott

08CV757S

v.

**Decision
&
Order**

John E. Potter, Postmaster General,

Defendant.

Before the Court is the plaintiff's motion to compel discovery (Docket No. 24).

The plaintiff, Eva M. Rachinger ("Rachinger") brings this action claiming that she has been discriminated against by the United States Postal Service ("USPS") based upon her sex and race; that she has been harassed due to unequal terms of employment; and that she has suffered retaliation because she complained about the alleged discriminatory and unequal treatment.

By way of the instant motion, the plaintiff seeks to compel the defendants to produce:(1) EEOC investigations of Rachinger designated by case numbers 1B-141-0022-07 and 1B-141-0011-08; (2) the USPS official investigation of Carl Lundin based upon a formal complaint filed against him by Rachinger; and (3) the USPS official investigation of Jody Jaeger and others based upon a formal complaint filed against them by Deanna Nagel. (Docket No. 24 at page 1). The papers supporting the motion set forth the factual details of some of the conduct underlying the claims in this case, but do not state that the plaintiff had served the defendants with discovery

demands requesting the documents which are the subject of the instant motion. (Docket No. 24 at pages 2 -6). The defendants assert that although the plaintiff had written a letter stating that she had never been informed of the status of the Lundin investigation, the letter did not request the USPS records regarding that investigation. (Docket No. 26 at page 3). Further, the defendant asserts that the plaintiff never attempted to contact counsel for the defendants to attempt to resolve the discovery matter prior to filing the instant motion to compel. (Docket No. 26 at page 4). The plaintiff admits that she did not request the documents “directly from the USPS” before filing the instant motion. (Docket No. 27).

The motion to compel is denied. However, the defendants are directed to construe the motion to be a discovery demand for the documents listed therein. The defendants shall respond to the discovery demand within 20 days of the date of this order.

So Ordered.

/s/ Hugh B. Scott
United States Magistrate Judge
Western District of New York

Buffalo, New York
September 4, 2009